

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAY 03 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CRUZ INIGUEZ, aka Cruz Iniguez
Garcia, aka Manuel Martinez, aka Gruz
Garcia Iniguez, aka Seal A,

Defendant - Appellant.

No. 05-50294

D.C. No. CR-98-00166-GLT-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Gary L. Taylor, District Judge, Presiding

Submitted April 13, 2006**

Before: SILVERMAN, McKEOWN, and PAEZ, Circuit Judges.

Cruz Iniguez appeals the sentence imposed on remand from this court's
decision in *United States v. Iniguez*, 368 F.3d 1113, 1117 (9th Cir. 2004) (en banc).

* This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without
oral argument. See Fed. R. App. P. 34(a)(2).

The sentence on remand was imposed after the Supreme Court in *United States v. Booker*, 543 U.S. 220 (2005), rendered the Sentencing Guidelines advisory, such that district judges could permissibly increase a sentence based on facts not proved to the jury.

Our case law forecloses Iniguez's contentions that retroactive application of the *Booker* remedial opinion, *id.*, at 244-268, violates the Due Process Clause, *see United States v. Dupas*, 419 F.3d 916, 919-921 (9th Cir. 2005), and the Ex Post Facto Clause, *see United States v. Williams*, No. 05-30071, 2006 WL 70076, *8 (9th Cir. March 21, 2006).

AFFIRMED.